

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

Robert Hendricks, *et al.*,

Plaintiffs,

v.

Total Quality Logistics, LLC, *et al.*,

Defendants.

Case No. 1:10cv649

Judge Michael R. Barrett

**ORDER**

This matter is before the Court upon Defendants Total Quality Logistics, LLC and Kenneth Oaks' Motion to Open First, to Present Evidence First, and to Close Last. (Doc. 475). Plaintiffs have filed a Response (Doc. 476) and Defendants have filed a Reply (Doc. 478).

The bench trial in this matter is set to commence on February 15, 2022. In a January 14, 2022 conference call with the Court, the parties sought direction as to the issues to be tried and the order of proceedings. Subsequent to the call, the parties conferred and submitted the following email to the Court:

"The Parties have conferred and agree that the following issues will be addressed at trial in February: (1) Whether TQL violated FLSA, which includes Defendants' administrative exemption defense determination; (2) whether liquated damages should be awarded, in the event liability is found; (3) whether Defendants willfully violated the FLSA; and (4) the individual liability of Kenneth Oaks."

As to the order of the proceedings, the Court has reviewed the parties' submissions and considered the issues raised by counsel during the conference call. The Court determines that Plaintiffs should be permitted to proceed first. Defendants

may examine the witnesses called by Plaintiffs at that time, or reserve the right to recall those witnesses in their case. Defendants may then present their affirmative defenses. Because the allegations made by Plaintiffs and the defenses asserted each have burdens of persuasion, the Court will permit redirect and recross to the extent appropriate.

The parties will submit proposed Findings of Fact and Conclusions of Law by close of business on February 8, 2022. If the parties believe that opening statements are appropriate, in light of their Proposed Findings of fact and Conclusions of Law, they will be so permitted. However, the parties are to agree to a time limit.

Due to the number of potential witnesses, the parties are to agree on a date by which they will exchange witness lists for their cases in chief. This does not preclude the testimony of previously listed, but not designated, witnesses as rebuttal. To effectuate preparation and fairness, the parties will exchange a list of the witnesses planned for the next day throughout the course of the trial.

The Court will maintain its established COVID protocols set forth in General Order 22-2 and discussed during the January 14, 2022 conference call. The parties are to instruct their witnesses in compliance therewith. Trial will generally proceed from 9:00 to 5:00 daily, with mid-morning, lunch and afternoon breaks as is appropriate. The Court and the parties will accommodate, to the extent possible, the conclusion of out-of-town witnesses within their travel schedules.

Following trial, closing arguments in support of the parties' proposed Findings of Fact and Conclusion of Law will be simultaneously submitted in writing. The parties will be permitted simultaneous responses.

Based on the foregoing, Defendants Total Quality Logistics, LLC and Kenneth Oaks' Motion to Open First, to Present Evidence First, and to Close Last (Doc. 475) is **DENIED.**

**IT IS SO ORDERED.**

/s/ Michael R. Barrett  
JUDGE MICHAEL R. BARRETT